

## § 673.5

## 34 CFR Ch. VI (7–1–07 Edition)

(d) *General allocation and reallocation*—(1) *Categories*. As used in section 462 (Federal Perkins Loan Program), section 442 (FWS Program), and section 413D (FSEOG Program) of the HEA, “Eligible institutions offering comparable programs of instruction” means institutions that are being compared with the applicant institution and that fall within one of the following six categories:

- (i) Cosmetology.
- (ii) Business.
- (iii) Trade/Technical.
- (iv) Art Schools.
- (v) Other Proprietary Institutions.
- (vi) Non-Proprietary Institutions.

(2) *Payments to institutions*. The Secretary allocates funds for a specific period of time. The Secretary provides an institution its allocation in accordance with the payment methods described in 34 CFR 668.162.

(3) *Unexpended funds*. (i) If an institution returns more than 10 percent of its Federal Perkins Loan, FWS, or FSEOG allocation for an award year, the Secretary reduces the institution’s allocation for that program for the second succeeding award year by the dollar amount returned.

(ii) The Secretary may waive the provision of paragraph (d)(3)(i) of this section for a specific institution if the Secretary finds that enforcement would be contrary to the interests of the program.

(iii) The Secretary considers enforcement of paragraph (d)(3)(i) of this section to be contrary to the interest of the program only if the institution returns more than 10 percent of its allocation due to circumstances beyond the institution’s control that are not expected to recur.

(e) *Anticipated collections of Federal Perkins Loan funds*. (1) For the purposes of calculating an institution’s share of any excess allocation of Federal Perkins Loan funds, an institution’s anticipated collections are equal to the amount that was collected by the institution during the second year preceding the beginning of the award period multiplied by 1.21.

(2) The Secretary may waive the provision of paragraph (e)(1) of this section for any institution that has a co-

hort default rate that does not exceed 7.5 percent.

(f) *Authority to expend FWS funds*. Except as specifically provided in 34 CFR 675.18 (b), (c), and (f), an institution may not use funds allocated or reallocated for an award year—

(1) To meet FWS wage obligations incurred with regard to an award of FWS employment made for any other award year; or

(2) To satisfy any other obligation incurred after the end of the designated award year.

(g) *Authority to expend FSEOG funds*. Except as specifically provided in 34 CFR 668.164(g), an institution shall not use funds allocated or reallocated for an award year—

(1) To make FSEOG disbursements to students in any other award year; or

(2) To satisfy any other obligation incurred after the end of the designated award year.

(Authority: 20 U.S.C. 1070b-3 and 1087bb, 42 U.S.C. 2752)

### § 673.5 Overaward.

(a) *Overaward prohibited*—(1) *Federal Perkins Loan and FSEOG Programs*. An institution may only award or disburse a Federal Perkins loan or an FSEOG to a student if that loan or the FSEOG, combined with the other estimated financial assistance the student receives, does not exceed the student’s financial need.

(2) *FWS Program*. An institution may only award FWS employment to a student if the award, combined with the other estimated financial assistance the student receives, does not exceed the student’s financial need.

(b) *Awarding and disbursement*. (1) When awarding and disbursing a Federal Perkins loan or an FSEOG or awarding FWS employment to a student, the institution shall take into account those amounts of estimated financial assistance it—

(i) Can reasonably anticipate at the time it awards Federal Perkins Loan funds, an FSEOG, or FWS funds to the student;

(ii) Makes available to its students; or

(iii) Otherwise knows about.

(2) If a student receives amounts of estimated financial assistance at any

time during the award period that were not considered in calculating the Federal Perkins Loan amount or the FWS or FSEOG award, and the total amount of estimated financial assistance including the loan, the FSEOG, or the prospective FWS wages exceeds the student's need, the overaward is the amount that exceeds need.

(c) *Estimated financial assistance.* (1) Except as provided in paragraphs (c)(2) and (c)(3) of this section, the Secretary considers that "estimated financial assistance" includes, but is not limited to, any—

(i) Funds a student is entitled to receive from a Federal Pell Grant;

(ii) William D. Ford Federal Direct Loans;

(iii) Federal Family Education Loans;

(iv) Long-term need-based loans, including Federal Perkins loans;

(v) Grants, including FSEOGs, State grants, Academic Competitiveness Grants, National SMART Grants, and ROTC subsistence allowances;

(vi) Scholarships, including athletic scholarships and ROTC scholarships;

(vii) Waivers of tuition and fees;

(viii) Fellowships or assistantships, except non-need-based employment portions of such awards;

(ix) Veterans educational benefits paid under Chapters 30 (Montgomery GI Bill-Active Duty), 31 (Vocational Rehabilitation and Employment Program), 32 (Veterans' Educational Assistance Program), and 35 (Dependents' Educational Assistance Program) of title 38 of the United States Code, and Chapters 31 (National Call to Service), 1606 (Montgomery GI Bill-Selected Reserve), 1607 (Reserve Educational Assistance Program) of title 10 of the United States Code, and Section 903 of Public Law 96-342 (Educational Assistance Pilot Program);

(x) National service education awards or post-service benefits paid for the cost of attendance under title I of the National and Community Service Act of 1990 (AmeriCorps);

(xi) Net earnings from need-based employment;

(xii) Insurance programs for the student's education; and

(xiii) Any educational benefits paid because of enrollment in a postsec-

ondary education institution, or to cover postsecondary education expenses.

(2) The Secretary does not consider as estimated financial assistance—

(i) Any portion of the estimated financial assistance described in paragraph (c)(1) of this section that is included in the calculation of the student's expected family contribution (EFC);

(ii) Earnings from non-need-based employment;

(iii) Those amounts used to replace EFC, including the amounts of any unsubsidized Federal Stafford or Direct Loans, Federal PLUS or Federal Direct PLUS Loans, and non-federal non-need-based loans, including private, state-sponsored, and institutional loans. However, if the sum of the loan amounts received that are being used to replace the student's EFC actually exceed the EFC, the excess amount must be treated as estimated financial assistance; and

(iv) Assistance not received under this part if that assistance is designated to offset all or a portion of a specific component of the cost of attendance and that amount is excluded from the cost of attendance as well. If that assistance is excluded from either estimated financial assistance or cost of attendance, that amount must be excluded from both.

(3) The institution may also exclude as estimated financial assistance any portion of a subsidized Federal Stafford or Direct Loan that is equal to or less than the amount of a student's veterans education benefits paid under Chapter 30 of title 38 of the United States Code (Montgomery GI Bill—Active Duty) and national service education awards or post service benefits paid for the cost of attendance under title I of the National and Community Service Act of 1990 (AmeriCorps).

(d) *Treatment of estimated financial assistance in excess of need—General.* An institution shall take the following steps if it learns that a student has received additional amounts of estimated financial assistance not included in the calculation of Federal Perkins Loan, FWS, or FSEOG eligibility that would result in the student's total amount of

estimated financial assistance exceeding his or her financial need by more than \$300:

(1) The institution shall decide whether the student has increased financial need that was unanticipated when it awarded financial aid to the student. If the student demonstrates increased financial need and the total amount of estimated financial assistance does not exceed this increased need by more than \$300, no further action is necessary.

(2) If the student's total amount of estimated financial assistance still exceeds his or her need by more than \$300, as recalculated pursuant to paragraph (d)(1) of this section, the institution shall cancel any undisbursed loan or grant (other than a Federal Pell Grant).

(3) *Federal Perkins loan and FSEOG overpayment.* If the student's total amount of estimated financial assistance still exceeds his or her need by more than \$300, after the institution takes the steps required in paragraphs (d)(1) and (2) of this section, the institution shall consider the amount by which the estimated financial assistance amount exceeds the student's financial need by more than \$300 as an overpayment.

(e) *Termination of FWS employment.* (1) An institution may fund a student's FWS employment with FWS funds only until the amount of the FWS award has been earned or until the student's financial need, as recalculated under paragraph (d)(1) of this section, is met.

(2) Notwithstanding the provisions of paragraph (e)(1) of this section, an institution may provide additional FWS funding to a student whose need has been met until that student's cumulative earnings from all need-based employment occurring subsequent to the time his or her financial need has been met exceed \$300.

(f) *Liability for and recovery of Federal Perkins loans and FSEOG overpayments.* (1) Except as provided in paragraphs (f)(2) and (f)(3) of this section, a student is liable for any Federal Perkins loan or FSEOG overpayment made to him or her. An FSEOG overpayment for purposes of this paragraph does not include the non-Federal share of an FSEOG award if an institution meets

its FSEOG matching share by the individual recipient method or the aggregate method.

(2) The institution is liable for a Federal Perkins loan or FSEOG overpayment if the overpayment occurred because the institution failed to follow the procedures in this part or 34 CFR parts 668, 674, or 676. The institution shall restore an amount equal to the overpayment and any administrative cost allowance claimed on that amount to its loan fund for a Federal Perkins loan overpayment or to its FSEOG account for an FSEOG overpayment.

(3) A student is not liable for, and the institution is not required to attempt recovery of, a Federal Perkins loan or FSEOG overpayment, nor is the institution required to refer an FSEOG overpayment to the Secretary, if the overpayment—

(i) Is less than \$25; and

(ii) Is neither a remaining balance nor a result of the application of the overaward threshold in paragraph (d) of this section.

(4)(i) Except as provided in paragraph (f)(3) of this section, if an institution makes a Federal Perkins loan or FSEOG overpayment for which it is not liable, it shall promptly send a written notice to the student requesting repayment of the overpayment amount. The notice must state that failure to make that repayment, or to make arrangements satisfactory to the holder of the overpayment debt to pay the overpayment, makes the student ineligible for further title IV, HEA program funds until final resolution of the overpayment.

(ii) If a student objects to the institution's Federal Perkins loan or FSEOG overpayment determination on the grounds that it is erroneous, the institution shall consider any information provided by the student and determine whether the objection is warranted.

(5) Except as provided in paragraph (f)(3) of this section, if a student fails to repay an FSEOG overpayment or make arrangements satisfactory to the holder of the overpayment debt to repay the FSEOG overpayment after the institution has taken the action required by paragraph (f)(4) of this section, the institution must refer the FSEOG overpayment to the Secretary

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for collection purposes in accordance with procedures required by the Secretary. After referring the FSEOG overpayment to the Secretary under this section, the institution need make no further effort to recover the overpayment.

(Approved by the Office of Management and Budget under control number 1845-0019)

(Authority: 20 U.S.C. 1070b-1, 1087dd, and 1087hh, 42 U.S.C. 2753)

[61 FR 60393, Nov. 17, 1996, as amended at 64 FR 58292, Oct. 28, 1999; 67 FR 67075, Nov. 1, 2002; 71 FR 45696, Aug. 9, 2006; 71 FR 64397, Nov. 1, 2006]

### § 673.6 Coordination with BIA grants.

(a) *Coordination of BIA grants with Federal Perkins loans, FWS awards, or FSEOGs.* To determine the amount of a Federal Perkins loan, FWS compensation, or an FSEOG for a student who is also eligible for a Bureau of Indian Affairs (BIA) education grant, an institution shall prepare a package of student aid—

(1) From estimated financial assistance other than the BIA education grant the student has received or is expected to receive; and

(2) That is consistent in type and amount with packages prepared for students in similar circumstances who are not eligible for a BIA education grant.

(b)(1) The BIA education grant, whether received by the student before or after the preparation of the student aid package, supplements the student aid package specified in paragraph (a) of this section.

(2) No adjustment may be made to the student aid package as long as the total of the package and the BIA education grant is less than the institution's determination of that student's financial need.

(c)(1) If the BIA education grant, when combined with other aid in the package, exceeds the student's need, the excess must be deducted from the other assistance (except for Federal Pell Grants), not from the BIA education grant.

(2) The institution shall deduct the excess in the following sequence: loans, work-study awards, and grants other than Federal Pell Grants. However, the institution may change the sequence if

requested to do so by a student and the institution believes the change benefits the student.

(d) To determine the financial need of a student who is also eligible for a BIA education grant, a financial aid administrator is encouraged to consult with area officials in charge of BIA postsecondary financial aid.

(Authority: 20 U.S.C. 1070b-1 and 1087dd; 42 U.S.C. 2753)

[61 FR 60393, Nov. 27, 1996, as amended at 71 FR 45697, Aug. 9, 2006]

### § 673.7 Administrative cost allowance.

(a) An institution participating in the Federal Perkins Loan, FWS, or FSEOG programs is entitled to an administrative cost allowance for an award year if it advances funds under the Federal Perkins Loan Program, provides FWS employment, or awards grants under the FSEOG Program to students in that year.

(b) An institution may charge the administrative cost allowance calculated in accordance with paragraph (c) of this section for an award year against—  
(1) The Federal Perkins Loan Fund, if the institution advances funds under the Federal Perkins Loan Program to students in that award year;

(2) The FWS allocation, if the institution provides FWS employment to students in that award year; and

(3) The FSEOG allocation, if the institution awards grants to students under the FSEOG program in that award year.

(c) For any award year, the amount of the administrative costs allowance equals—

(1) Five percent of the first \$2,750,000 of the institution's total expenditures to students in that award year under the FWS, FSEOG, and the Federal Perkins Loan programs; plus

(2) Four percent of its expenditures to students that are greater than \$2,750,000 but less than \$5,500,000; plus

(3) Three percent of its expenditures to students that are \$5,500,000 or more.

(d) The institution shall not include, when calculating the allowance in paragraph (c) of this section, the